

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

x
: :
UNITED STATES OF AMERICA, : : Criminal Action
: :
Plaintiff, : : No. 2:12-cr-000154
: :
v. : : Date: November 15, 2012
: :
THOMAS RAMEY, JR., : :
: :
Defendant. : :
x

TRANSCRIPT OF SENTENCING HEARING HELD
BEFORE THE HONORABLE THOMAS E. JOHNSTON, JUDGE
UNITED STATES DISTRICT COURT
IN CHARLESTON, WEST VIRGINIA

APPEARANCES:

For the Government: AUSA STEVEN R. RUBY
AUSA THOMAS C. RYAN
U.S. Attorney's Office
P.O. Box 1713
Charleston, WV 25326-1713

For the Defendant: GREGORY J. CAMPBELL, ESQ.
BRADY CAMPBELL, ESQ.
Campbell Law Offices
1412 Kanawha Boulevard, East
Charleston, WV 25301

Probation Officer: Lee Cueva

Court Reporter: Ayme Cochran, RPR, CRR

Proceedings recorded by mechanical stenography;
transcript produced by computer.

1 PROCEEDINGS had before The Honorable Thomas E. Johnston,
2 Judge, United States District Court, Southern District of West
3 Virginia, in Charleston, West Virginia, on November 15, 2012, at
4 2:06 p.m., as follows:

5 COURTROOM DEPUTY CLERK: The matter before the Court is
6 the United States versus Thomas Ramey, Jr., criminal action
7 number 2:12-154, scheduled for sentencing.

8 THE COURT: Good afternoon. Will counsel please note
9 their appearances?

10 MR. RUBY: Good afternoon, Your Honor. Steve Ruby and
11 Thomas Ryan for the United States, and with us at counsel table
12 is Special Agent Todd Berry of the FBI.

13 MR. G. CAMPBELL: Judge, Gregory Campbell for the
14 defendant, Thomas Ramey, who is present here in the courtroom,
15 and also assisting me is my son, Brady Campbell, who has just
16 been admitted to this Court.

17 THE COURT: Mr. Campbell, welcome.

18 MR. B. CAMPBELL: Thank you.

19 THE COURT: Will the defendant please stand?

20 I'll ask the deputy clerk now to administer an oath to the
21 defendant.

22 COURTROOM DEPUTY CLERK: Please raise your right hand.

23 **THOMAS RAMEY, JR., DEFENDANT, SWORN**

24 COURTROOM DEPUTY CLERK: Thank you.

25 THE COURT: You may be seated.

1 Mr. Ramey, do you understand that you are now under oath and
2 you must tell the truth and, if you testify falsely, you may face
3 prosecution for perjury or for making a false statement?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: All right. And throughout the course of
6 this hearing, if there's anything that occurs that you don't
7 understand, I want you to feel free to speak up and seek
8 clarification.

9 Also, if at any time you need to confer with your attorneys,
10 I'll be pleased to pause the proceedings to allow you to do so.
11 Do you understand all that?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: All right. As I recall from the plea
14 hearing, I deferred a finding on a factual basis. Having now
15 reviewed the record, I am now prepared to find that there is a
16 basis in fact for the tendered plea in this case and that the
17 elements of the crime charged in the information have been
18 established.

19 Mr. Campbell, have you received and read and reviewed with
20 your client a copy of the Presentence Report?

21 MR. G. CAMPBELL: Yes, Your Honor.

22 THE COURT: And, Mr. Ramey, have you received and read
23 and reviewed with your counsel a copy of the Presentence Report?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: And, Mr. Ruby or Mr. Ryan, have you all

1 received the Presentence Report?

2 MR. RUBY: We have, Your Honor.

3 THE COURT: Very well. I note that a number of, at
4 times, puzzling objections were asserted. What remains
5 outstanding, Mr. Campbell?

6 MR. G. CAMPBELL: Just acceptance, Your Honor.

7 THE COURT: All right. And, Mr. Campbell, tell me why
8 I should grant the defendant acceptance of responsibility when
9 eight objections were asserted, some of which undermined the --
10 not only the stipulation of facts into which the defendant
11 entered as a part of his plea agreement, but also the statement
12 for acceptance of responsibility submitted by you? You objected
13 to your own statement.

14 MR. G. CAMPBELL: Well, Your Honor, the answer to the
15 first part of your question is because I wrote it badly. I tried
16 to take the stipulation of facts that had the government's best
17 foot forward on it and put our best forward on it, foot forward.

18 For instance, there was something that said that votes were
19 illegally cast and I said, well, no, they weren't illegally cast
20 and I do stand by that statement, Judge, but the problem with the
21 votes were, although the voters had no criminal intent or
22 anything else, the applications upon which those ballots went out
23 were, in fact, not properly prepared.

24 THE COURT: And your position is that even if an
25 absentee ballot application is prepared illegally and

1 fraudulently, that that vote can nonetheless be cast legally?

2 MR. G. CAMPBELL: No, sir. Well, I don't think that --

3 THE COURT: That seems to be what you just said.

4 MR. G. CAMPBELL: I don't think that any of the people
5 that cast their ballots, people whose applications had been
6 filled out, knew that they were doing something wrong. That was
7 my point. I don't think the people that actually voted said,
8 "Here I go. I've got an illegal application. This is an illegal
9 vote and I'm going to vote it anyhow".

10 THE COURT: Well, that's different than whether or not
11 the vote was cast legally.

12 MR. G. CAMPBELL: Yes, sir, and, as I say, when I wrote
13 it, I did not write it clearly, but that's what I meant when I
14 went through the Presentence Report.

15 THE COURT: Well, all right, but let's go back to my
16 original question then.

17 MR. G. CAMPBELL: All right.

18 THE COURT: You asserted objections which undermined
19 the stipulation of facts, in addition to the acceptance of
20 responsibility statement that you submitted. Now my
21 understanding is you're withdrawing those objections.

22 MR. G. CAMPBELL: Yes, sir. Yes, sir. We had -- Mr.
23 Ruby, Agent Berry, Mr. Ramey, and I met for well over an hour and
24 went through that stipulation of facts and what I had responded
25 in my letter to Ms. Cueva, and I think to the satisfaction, at

1 least, to the government, I explained what our position was and
2 followed up with a letter to Ms. Cueva.

3 THE COURT: All right. So among the other objection
4 you asserted was an objection to the statement contained in the
5 Presentence Report that this defendant participated in a
6 conspiracy with Mr. Bowman and Mr. Whitten to procure these
7 absentee ballot applications unlawfully.

8 MR. G. CAMPBELL: That's true.

9 THE COURT: And you are withdrawing your objection to
10 that statement in the Presentence Report?

11 MR. G. CAMPBELL: It is our position now, Judge, and
12 has been from the beginning, that Mr. Ramey was not part of a
13 conspiracy with Mr. Whitten and Mr. Bowman to violate any voting
14 laws in Lincoln County.

15 THE COURT: Of Lincoln County?

16 MR. G. CAMPBELL: And -- well, in this election.

17 THE COURT: How about the laws of the State of West
18 Virginia?

19 MR. G. CAMPBELL: And the laws of the State of West
20 Virginia, certainly, sir, and I'm willing to tell you why I think
21 that.

22 THE COURT: I'm interested to hear that.

23 MR. G. CAMPBELL: All right.

24 THE COURT: Because I'm -- after everything I've heard
25 in this case, I'm pretty skeptical --

1 MR. G. CAMPBELL: Okay.

2 THE COURT: -- of this notion.

3 MR. G. CAMPBELL: Your Honor, I got appointed in this
4 case on Monday, January the 30th. On Tuesday, the 31st, I had
5 Mr. Ramey come to my office. I had also talked to Mr. Ruby the
6 day before, telling him I had been appointed, and that I was in
7 the case.

8 On February the 3rd, which is three days after my
9 appointment, four days after my appointment, I was contacted by
10 Mr. Ruby and Mr. Goodwin and, at that time, they proposed or told
11 me that they would extend to Mr. Ramey a plea to a 241
12 conspiracy, and my notes indicate that they told me that the base
13 offense level is 12. If he got two off for acceptance, that's an
14 offense level of 10 and the guideline was 6 to 12 months.

15 Now, as their memorandum points out, Mr. Bowman and Mr.
16 Whitten have already been in. So it's true, he's last, but I
17 didn't get appointed until after they were in, but anyhow, Judge,
18 they said, "This is your -- you're looking at a base offense
19 level of 10, 6 to 12 months. If you can give us information on
20 others, there's a possibility of a motion. You probably won't
21 pull time".

22 I bring Mr. Ramey in. I called -- I called the government
23 back and said, "We don't have a factual basis for the plea" and,
24 Judge, that was our position for months and, finally -- and we
25 prepared for trial.

1 Judge, I called up the court administrator. I called up
2 Judge Stanley, said, "We're -- this is a target letter. This
3 comes under 'other'. I'm going to far exceed that. Can I go
4 ahead and prepare for trial?" They said yes, and that's exactly
5 what we did, hired an investigator, went out, interviewed
6 witnesses, got ready to go to trial and, all along, our position
7 was no conspiracy.

8 When we met with them, Judge, four or five days after my
9 appointment, Mr. Ramey told them everything. He told them
10 everything. What he -- what he did tell them was, is that there
11 were absentee ballot applications that were marked retroactively
12 and he didn't know how that had been done or who did it and he
13 lied. That's the false statement.

14 We're still in negotiations. I'm still telling them we do
15 not have a factual basis to enter a plea. They come to me and
16 say, "How about a false statement"? I talk to Mr. Ramey.

17 Now I understand -- I was in Alaska when Mr. Bowman got
18 sentenced, but I have read the transcript. Mr. Bowman didn't
19 cause Mr. Ramey to come in. Mr. Ramey and I are the only two
20 people that know what caused him to come in, and what caused him
21 to come in was the fact that Mr. Bowman had been sentenced on the
22 -- or had been charged with a conspiracy. Mr. Whitten was in and
23 we did not know how fruitful the mind of the government could be
24 if they drafted an indictment against Mr. Ramey.

25 So we sat down and talked about it long and hard and Mr.

1 Ramey decided that, discretion being the better part of valor, we
2 had a factual basis for the false statement and took it. So
3 that's the history of how it goes and, Judge, that's why our
4 assertion has been from day one that there's no factual basis for
5 the plea for him to enter to a conspiracy.

6 While we were preparing for sentencing, Judge, something
7 came up about a statement that Mr. Bowman had made. Well, I
8 didn't have that statement, so the government provided me with a
9 302 that Mr. Bowman gave and I'm told this is the only statement
10 that they have from him and, Judge, nowhere in that 302, as far
11 as I can tell, does Mr. Bowman say that Mr. Ramey is in a
12 conspiracy.

13 I do know that Mr. Whitten says that Mr. Ramey came up with
14 the idea. Mr. Bowman doesn't say that anywhere that I'm aware
15 of. Mr. Bowman says that they met and they had an agreement to
16 utilize the absentee ballot process and that's exactly right,
17 Judge. That's exactly right. They did have an agreement to
18 utilize the absentee voting process, but Mr. Ramey did not have
19 any kind of agreement at all to break the law.

20 Judge, in my reading of Mr. Bowman's 302, it says -- and as
21 far as I know, it has never been disputed by the government, but
22 it says that two weeks prior to the election, in May of 2010,
23 two weeks prior to the election, that Mr. Bowman sat down and
24 read the Code. He had attempted to read the Code earlier and,
25 according to the 302, Mr. Whitten came in and said, "You don't

1 need to read that Code. We're doing all right".

2 Two weeks before the election, Mr. Bowman, in his 302 -- and
3 the government has made a motion for him -- came to the
4 determination that he had been -- by following the instructions
5 of Donald Whitten, that he had broken the law and the 302
6 indicates that, once he read that, that he went home and never
7 campaigned again for the last two weeks. Now that's just what
8 I'm getting, Judge, from information that the government gives
9 me.

10 So I've got Mr. Bowman saying that Mr. Whitten has told them
11 consistently that they would be okay on these absentee ballot
12 applications, as long as they marked a 1 or a 7. I have read
13 grand jury transcripts given to me by the government where they
14 have had witnesses -- or at least one. I've only gotten the one,
15 Judge, of Ms. Frazier, where she says, "Well, we were out there
16 doing the absentee ballot process. I didn't know it was wrong.
17 I thought it was right".

18 Judge, the government in their brief says it's hard to
19 understand how an educated man like Mr. Ramey could not know, but
20 the government has witnesses that have testified that they didn't
21 know. I've got Mr. -- I've got Mr. Bowman, at least in the 302,
22 he indicates a lot of things, but he doesn't indicate that Mr.
23 Ramey was a part of the conspiracy.

24 So, I mean, Judge, I don't want to affront the Court. I
25 don't want to get my client in any more trouble than what he's

1 in, but the reason from day one we have told them we have no
2 factual basis for the conspiracy plea and that's simply where he
3 stands today, Judge, and the information that I'm arguing to you,
4 I have, but that's his position.

5 Oh, and I guess while I'm here, the question, of course, is
6 he an honest man or not? I've got a hundred people or so behind
7 me saying that he is. It's not -- it's unlike his character to
8 do something like this.

9 The Court has received letters. I know there were around 88
10 or something, but I sent in a batch of 20 because you told me you
11 would read 20 and, in some of those letters, those people have
12 indicated they had voted absentee in earlier elections, Judge,
13 and thought it was proper to do so.

14 And I also understand your concern about the forms, but you
15 also know that there's a West Virginia Code section that speaks
16 of absentee ballots and says that you're required to mark "the
17 reason, (comma), if any, (comma), that you can't vote". That's
18 not on the application, I understand that, but that is at least a
19 confusing aspect of it.

20 But, Judge, I can't -- other than to tell you the history,
21 to put his credibility in issue, it's our position, it's Mr.
22 Ramey's position, that he was never part of an agreement to
23 commit a crime and that would be -- and those are the elements of
24 a conspiracy.

25 THE COURT: What's the government say?

1 MR. RUBY: Your Honor, I'll say first that even if --
2 and, as the Court is aware from the government's sentencing
3 memorandum, the government doesn't buy the argument that Mr.
4 Ramey was unaware or that he had no inkling whatsoever that there
5 was a problem -- a problem, excuse me, Your Honor, with
6 falsifying close to a hundred forms to -- that were for the
7 purpose of voting in an election.

8 He was an elected official himself. He had been part of --
9 in and around the electoral process for a number of years and
10 whether or not -- and it's not whether or not he knew the details
11 of the absentee voting laws at the time he completed the forms,
12 there's, I think, certainly by a preponderance of the evidence
13 and I think even beyond a reasonable doubt, Your Honor, there's
14 evidence to establish that the defendant at least must have had
15 -- must have had an understanding that there was a problem with
16 falsifying the forms.

17 THE COURT: Mr. Ruby, before you go on, do you happen
18 to have one of the forms that was utilized in 2010?

19 MR. RUBY: I do, Your Honor.

20 THE COURT: May I see that?

21 MR. RUBY: Yes, Your Honor.

22 THE COURT: You should show it to counsel first. I was
23 on the Secretary of State's website today and looked at the form
24 that's current, but it has been updated since 2010. So I'd like
25 to see what one of the forms looked like then.

1 MR. RUBY: This version, Your Honor, I thought you
2 might want to look at it today.

3 THE COURT: Hang on just a second. Let me take a quick
4 look at it.

5 MR. RUBY: Yes, Your Honor.

6 (Pause.)

7 THE COURT: Any objection to this being placed in the
8 record?

9 MR. G. CAMPBELL: No, Your Honor.

10 MR. RUBY: No, Your Honor.

11 THE COURT: All right. I'm sorry, Mr. Ruby. You may
12 proceed.

13 MR. RUBY: No, Your Honor. I was just going to
14 indicate for the record that in anticipation that you might want
15 to take a look at this today, I prepared one with the name of the
16 voter, the date of birth, and the address redacted.

17 THE COURT: I see that, and I was much more interested
18 in what the form said, which is, as I'm sure you can comment on
19 more broadly, is really pretty clear.

20 MR. RUBY: Yes, Your Honor. As the government pointed
21 out in its sentencing memo, the form says in bold type, "I
22 understand that I must vote in person, if I can, and I do hereby
23 certify the information given is true to the best of my
24 knowledge".

25 The form also says further up in the space to indicate the

1 reason for eligibility to vote absentee, "I am requesting an
2 absentee ballot for the following reason: I am not able to vote
3 in person during the early voting period and on Election Day
4 because", and then, of course, there's a list of reasons from
5 which the voter can choose.

6 The defendant has stipulated in the stipulation of facts
7 that he and Mr. Bowman and Mr. Whitten agreed to mark absentee
8 ballot applications to indicate that the voter was unable to vote
9 in person, either because of travel or employment, and this is
10 important. The stipulation -- the stipulation that the defendant
11 has agreed to says that they were going to do that, that they
12 agreed to do that, regardless of whether those reasons were true.

13 THE COURT: Now, and Mr. Bowman pled guilty to that
14 conspiracy, did he not?

15 MR. RUBY: He did, Your Honor.

16 THE COURT: And is -- as you're probably aware, Mr.
17 Ruby, there are certain federal crimes and, in my experience,
18 those are limited to a very particular species in a tax case
19 where the government must prove that the defendant knew what he
20 was doing was against the law and, in all other cases, ignorance
21 of the law is no excuse. Is that your understanding?

22 MR. RUBY: That's correct, Your Honor, and this is --
23 or the relevant conduct that's at issue here, the defendant's
24 involvement in the conspiracy, is a general intent crime.
25 There's no requirement of the kind of specific intent that is

1 called for in certain tax cases, as the Court says.

2 I'll also point out, Your Honor, that even if, even if we
3 accepted the defendant's statement that he didn't have the
4 necessary intent to be part of a conspiracy until shortly before
5 the election, the conspiracy to deprive voters of their rights
6 was ongoing at the time the defendant, by his own admission,
7 caused evidence to be altered.

8 So, at that point, when he caused evidence to be altered, he
9 himself took an overt act, performed an overt act in furtherance
10 of the conspiracy, and had certainly, at least by that point,
11 breached the necessary mutual understanding with Mr. Bowman and
12 Mr. Whitten that something -- something criminal was being done.

13 So even if, even if the Court were to credit the defendant's
14 contention about his mental state in the months leading up to the
15 election, he joined the conspiracy at least by the time he made
16 the decision to cause evidence to be altered.

17 THE COURT: So let's get back to the original
18 objection. What's the government's position on acceptance of
19 responsibility at this point?

20 MR. RUBY: Your Honor, the government thought long and
21 hard about the question of acceptance of responsibility after
22 meeting with the defendant and with defense counsel. The
23 objections -- as I understand it, the objection other than the
24 one we're discussing right now, that is the question of
25 conspiracy, has been withdrawn, and the -- I will say --

1 THE COURT: Well, actually, my understanding is, and we
2 may need to get Mr. Campbell to clarify this, that he has
3 withdrawn all of his objections, except the objection to the
4 probation officer's failure to give a reduction for acceptance of
5 responsibility.

6 Am I correct about that, Mr. Campbell?

7 MR. G. CAMPBELL: Yes, sir.

8 MR. RUBY: Very well, Your Honor. The question really
9 is whether the defendant's denial of his participation in the
10 conspiracy constitutes a frivolous denial of relevant conduct
11 and, given the weight of the evidence, I have to say it is at
12 least very, very close to that.

13 However, given the fact that the defendant did plead guilty,
14 did resign from his office, which are also listed in the
15 Application Note for the acceptance guidelines as factors to be
16 considered, we have made the decision that we're not -- we won't
17 object to -- we won't object to credit for the defendant for
18 acceptance of responsibility. I'm not sure that -- well, I am
19 not prepared to argue that the Court should give that credit, but
20 I think, certainly, it would be within the Court's discretion to
21 do it based upon the Application Note in the guideline.

22 THE COURT: Mr. Campbell, anything further?

23 MR. G. CAMPBELL: Yes, sir. In the first days of my
24 representation that I explained to you earlier, the government
25 sent me a case, which I can't put my hand on right now. It was

1 out of Virginia. It might have been *Cheek v. United States*, I'm
2 not sure. Mr. Ruby sent it to me to show that absentee voting
3 violations can be the basis for a 241 conspiracy. The case also
4 held that it was a specific intent crime and that the government
5 -- because I called him up and thanked him for the case -- and
6 that the government would have to prove beyond a reasonable doubt
7 that he, in fact, had knowledge it was a crime, intended to do
8 it, and did it.

9 Judge, it's a whole lot harder to defend a conspiracy charge
10 when the burden is a preponderance rather than beyond a
11 reasonable doubt. I cannot tell you why the government did what
12 they did or what their decision process was then, but I do know
13 that it was our position all along and -- and I can tell the
14 Court is not real happy with it, but it was our decision all
15 along, it was our information all along, that there was no
16 factual basis for the plea and that's -- Judge, that's still
17 exactly where we are.

18 If you are talking conspiracies, what's the government do
19 when -- when it says that Mr. Bowman -- apparently, if there was
20 a conspiracy Mr. Bowman was in, he withdrew from it two weeks
21 before the election and Mr. Ramey's activities occurred
22 subsequent to that, his activities being his encounter with Ms.
23 Topping, the absentee applications being given reasons, and his
24 lying to the agents about that. This all came after Bowman had
25 -- if you are talking a conspiracy, and I'm not, but he withdraw

1 from -- withdrew from it, if there was one.

2 But, Judge, I only know what the government gives me and
3 what the government gave to Mr. Bowman, he doesn't say -- he --
4 he says that he, Whitten, and Mr. Ramey had an agreement
5 concerning absentee ballots. He -- he never puts Mr. Ramey in
6 that conspiracy. He talks twice about Mr. Whitten telling him
7 not to read the Code.

8 You have Donald Whitten, who for over 20 years was Clerk,
9 never went to a training session in his life; you have Sheriff
10 Bowman, who was active in politics for years; and you have a
11 letter from a Mr. Linville, one of Mr. Bowman's friends, saying
12 that Bowman told him, "Well, we're going to back Thomas Ramey.
13 You don't know who he is, but he's as green as a gourd". You
14 have those letters. I sent them to you and I would just ask you
15 to consider those.

16 THE COURT: All right. First of all, the defendant is
17 not charged with a conspiracy. He is charged with lying to an
18 FBI agent and he has pled guilty to that. However, that is part
19 of a bigger story in this case and whether or not legally there
20 is a conspiracy, and I have so found with regard to Mr. Bowman,
21 and it is -- it is the very same conspiracy we're discussing.

22 Whether or not legally there's a conspiracy, any assertion
23 that this defendant was not involved in the election fraud
24 involving these absentee ballots, especially when you look at the
25 form, is not credible to me. So now there's a separate legal

1 question of whether or not this is relevant conduct and nobody
2 has really argued this and I don't really see the need to dive
3 into it because the government is taking the position that it has
4 no objection to the defendant receiving a reduction for
5 acceptance of responsibility.

6 If, as Mr. Campbell has suggested, the defendant is standing
7 by the factual basis for the plea set forth in the stipulation of
8 facts, then in spite of this backpedaling that I saw in these
9 objections and in the letters, and I'll talk about that after
10 while, I think the defendant has done the bare minimum necessary
11 to receive a reduction for acceptance of responsibility.

12 I would add that that reduction likely is not going to have
13 a tremendous impact one way or the other in my sentencing
14 decision. I also believe that I can consider -- you know, I've
15 been doing this long enough to know when I see minimization and
16 when I see backpedaling, whether it affects acceptance of
17 responsibility or not, and it is certainly something I can
18 consider in connection with the very broad 3553(a) factors.

19 So the ruling, though, on the acceptance of responsibility
20 is that I will sustain the objection and grant the -- a two-level
21 reduction for acceptance of responsibility and I will ask Ms.
22 Cueva to prepare a brief addendum to the Presentence Report to
23 that effect.

24 Moving on, I would note that I have received sentencing
25 memoranda from both sides. I have received somewhere in the

1 neighborhood of 30 letters.

2 Mr. Campbell, I know that you're familiar with my policy on
3 letters. I did read the first 20, and some of them were
4 duplicative, but I believe I have a count of a total of 30
5 letters. Do you wish that those be made a part of the record?

6 MR. G. CAMPBELL: Yes, Your Honor.

7 THE COURT: Any objection?

8 MR. RUBY: No, Your Honor.

9 THE COURT: All right. I will so order that.

10 I want to say this, too, about the letters. The letters are
11 interesting and normally, at this stage in the hearing, I go
12 through the perfunctory exercise that you've just seen where I
13 ask if there's any objection, I put them in the record, we move
14 on, and probably nobody ever looks at them ever again. However,
15 I would encourage members of the public and the media to look at
16 these letters. They are interesting and I think that they would
17 be worth the effort to take a look at, at some point.

18 Now, on August 8th, 2012, the defendant appeared before this
19 Court and entered a plea of guilty to a single-count information
20 charging him with making a false statement in violation of 18 U.
21 S. C. Section 1001.

22 I will now adjudge the defendant guilty of that crime and
23 accept the plea agreement that was previously filed.

24 I'm now ready to give my tentative findings as to the
25 applicable guidelines. I find a total offense level of 4.

1 That's a base offense level of 6, minus 2 for acceptance of
2 responsibility; a criminal history category of I, based on 0
3 criminal history points, yielding an imprisonment range of 0 to
4 6 months, which is in Zone A of the sentencing table, which
5 allows for, among other things, straight probation; 1 to 3
6 (sic) years of supervised release -- actually, 1 to 5 years of
7 probation; a fine range of \$250.00 to \$5,000.00; and a mandatory
8 special assessment of \$100.00.

9 Are there any legal objections to my tentative findings as
10 to the applicable guidelines?

11 MR. RUBY: No, Your Honor.

12 MR. G. CAMPBELL: No, Your Honor.

13 THE COURT: All right. Very well.

14 Mr. Ramey, at this time, the Federal Rules of Criminal
15 Procedure give you the right to make any statement that you would
16 like to make, although you're not obligated to make any
17 statement. However, if you do choose to make a statement, I
18 would ask that you stand to do so.

19 THE DEFENDANT: Thank you, Your Honor. I would just,
20 at this point, like to apologize to my family, my friends, and
21 the people of Lincoln County. As I was growing up, I was always
22 really interested in public government and also just non-profits
23 and helping people and it was always very hurtful to me to know
24 that Lincoln County was a place that had so much negative
25 attention and I always, from a young age, strived to try to do

1 what I could to make it a better place and that's one of the
2 reasons why I decided to get in public office and run for school
3 board and try to save small schools and try to instill a sense of
4 pride in the people that live in small rural areas and rural
5 places like Lincoln County and I love Lincoln County. I love the
6 people there.

7 I -- never did I want to end up being in a position where I
8 would cause negative attention and the negative connotations that
9 are apparent toward Lincoln County and, for that, I'm ashamed and
10 for the crime that I did commit, I'm very sorry and remorseful
11 and would never, never do that again.

12 I just want to -- want the Court to understand the position
13 that I was in. I was appointed to the County Commission in
14 November. I had never had any type of formal relationship, not
15 even a hello relationship with Jerry Bowman or Donald Whitten.
16 Didn't know anyone at the courthouse, for the most part. I was
17 an activist that, actually, most of them tried to stay away from.

18 I would attend community meetings and the people in the
19 communities would call me. I helped people do a wide array of
20 different things because they trusted me and, when I was able to
21 get on the County Commission after being involved in social
22 justice work and grass-roots work, when Donald Whitten and Jerry
23 Bowman told me that absentee voting was no excuse, this is a way
24 that you can really go out and get those people that can't get to
25 the polls and the people that don't want to vote, this is a way

1 to get to them, I thought it was great.

2 I was proud of what I was doing the entire time. I was so
3 proud of it that I went to all the meetings that I would attend
4 across the state and talked about it, told people carrying
5 absentee applications with them it was no excuse and, when I
6 questioned the applications, I never formally sat down and read
7 it to understand it, but Donald Whitten always said, "Well, the
8 Secretary of State's Office never has their paperwork straight.
9 That's just a form for us to file and to keep it filed, that's
10 all it is", Donald said, and he went across the state -- I mean
11 across the county, in Lincoln County, and every single event we
12 had, he would say the same thing. He would openly talk about how
13 absentees were no excuse. People truly thought the process was
14 no excuse, as long as, he would say, as long as they vote one
15 time.

16 Where I messed up, and where I'm ashamed, is after I was
17 working myself as hard as I can -- could to get people to be able
18 to vote and when it was brought to my attention that I was lied
19 to and used and, as some people laugh and say, I was their
20 puppet, I panicked, and I went to the County Clerk's Office and,
21 because of what I did, a girl that I've known my entire life went
22 back and marked some of the applications that had already been
23 marked and I -- I know that she would not have done that if I
24 hadn't went to her and it wasn't because I was the County
25 Commissioner. It wasn't because I was in any kind of position.

1 It was because I had known her my whole life.

2 And the reason that my application didn't have reasons
3 marked was that Donald and Jerry kept saying, "Mark 1 or 7".
4 Well, to me, if you didn't have to have a reason, there was no
5 excuse. I just didn't mark a reason. I didn't think you should
6 mark a reason, but at the end, I panicked, and then when I was
7 asked about it, I was too scared to admit it, and that is --
8 that's something that I take full responsibility for.

9 But I just hope the Court recognizes and believes that I
10 never, never agreed to be a part of a conspiracy, never agreed to
11 do anything illegal and, actually, if they would have ever
12 implied something illegal, I would have never even been their
13 friend or campaigned with them and I'm ashamed, because the very
14 process that I was so proud of, the electoral process that I
15 tried to help strengthen by helping make sure people could vote,
16 I interfered with that when I had her retroactively mark those
17 applications and, for that, I'm sorry, and I take full
18 responsibility.

19 THE COURT: Thank you, sir. You may be seated.

20 Mr. Campbell, anything else on behalf of the defendant
21 before I impose sentence?

22 MR. G. CAMPBELL: No, Your Honor.

23 THE COURT: Mr. Ruby?

24 MR. RUBY: Your Honor, in a case like this, I think
25 it's incumbent on the United States to say a few words about the

1 importance of democracy and why the things that the defendant and
2 his co-conspirators did were so dangerous. Our democracy, at its
3 heart, depends on a set of unspoken promises that we make to each
4 other. We promise that we're going to choose our government
5 based on majority rule and, when we have an election, we might
6 argue our position with passion and with fervor, but when it's
7 time to count the votes, there is a mutual agreement that
8 democracy depends on that the votes are going to be counted
9 honestly and that we're going to abide by the decision of the
10 majority whether we like it or not. Now that system only works
11 if we can trust each other to play by the rules.

12 When elections are rigged, it destroys that trust and it
13 robs people of confidence in everything that their government
14 does and, certainly, there are a lot of folks in Lincoln County
15 that we've talked to in the course of this investigation who are
16 -- who are disillusioned and disgusted and are ashamed of the
17 things that their elected officials have done in this election
18 and in elections past.

19 The Court noted when it sentenced the defendant's
20 co-conspirators correctly that there are parts of Southern West
21 Virginia that have suffered from election fraud for decades.
22 Past prosecutions don't seem to have sent a strong enough message
23 and a stiff sentence here, along with the sentences that the
24 Court imposed for the defendant's co-conspirators, is a big step
25 and it's a necessary step toward the goal of honest elections in

1 Lincoln County.

2 There are a few things, Your Honor -- and this is pointed
3 out in the sentencing memo -- there are a few things about this
4 defendant specifically that are important to note.

5 First, he was the last of the group of conspirators to tell
6 the truth and to cooperate with our investigation. His
7 co-conspirators, because they cooperated earlier in the
8 investigation, were able to -- were able to assist us and the
9 defendant was not.

10 Now I know Mr. Campbell said earlier that Mr. Bowman didn't
11 play any role in Mr. Ramey's decision to plead guilty. I'm
12 obviously not privy to the discussions that Mr. Campbell and his
13 client have, but certainly, it's the -- I can tell the Court that
14 the sequence of events were that Mr. Bowman gave information
15 about Mr. Ramey's involvement in the conspiracy and that
16 information and the fact that Mr. Bowman was ready and willing to
17 testify against the defendant were conveyed to defense counsel
18 and the defendant -- the defendant decided to plead guilty.
19 Because of the position that he put himself in by delaying, he
20 wasn't able to provide us with any assistance of that nature.

21 Second, the defendant is the only one in the group of
22 conspirators, to the government's knowledge, who altered evidence
23 to try to conceal the conduct the conspirators were engaged in.

24 The third point I would make, and this is also in the
25 memorandum, the defendant's false statement stands out because it

1 was gratuitous. We didn't -- the FBI didn't and our office
2 didn't know anything about altered absentee ballot applications
3 until the defendant himself raised the issue with a false story
4 about how the applications were altered for the express purpose
5 of lying to us about it and trying to suggest that Mr. Whitten or
6 somebody in his office was to blame for those applications being
7 altered.

8 And the last point I'd make, Your Honor, is that the
9 defendant didn't correct his false statement quickly. He lied to
10 the FBI back in February. As Mr. Campbell set this timeline, he
11 let the lie stand until the middle of the summer when he was
12 facing imminent charges. Those are all differences that we
13 believe the Court ought take into account as it sentences this
14 defendant. Thank you, Your Honor.

15 THE COURT: Thank you, Mr. Ruby.

16 Before I -- I meant to address this earlier. I received
17 three letters that were not in favor of the defendant. Those
18 have been provided to counsel, I believe. You all have received
19 those?

20 MR. RUBY: Yes, Your Honor.

21 MR. G. CAMPBELL: Yes, sir.

22 THE COURT: Is there any objection to me placing those
23 in the record?

24 MR. RUBY: No, Your Honor.

25 MR. G. CAMPBELL: We have no objection.

1 THE COURT: All right. That will also be so ordered.

2 All right. After consideration of the advisory guidelines
3 and the other applicable factors under Section 3553(a) of Title
4 18 United States Code, I am now ready to impose sentence.

5 Will the defendant please stand?

6 Mr. Ramey, I gathered from everything I reviewed, including
7 the letters, that you may very well have started out in, first,
8 community issues or issues of public concern and, later, in
9 politics as an idealistic young man trying to make a difference
10 in issues that you saw were important to your community and
11 that's a great thing. Idealistic youth, fresh, new, eager faces
12 are probably what most renews the public's interest and
13 enthusiasm for politics and public service from time to time,
14 especially when we're all tempted to become disgusted or
15 disenchanted with politics and, yet, your idealism apparently
16 yielded to corruption at some point.

17 Now you, I imagine, had, at some point, some political
18 mentors, people who had more experience than you, who took you
19 under their wings and guided and promoted you as a young man in
20 politics. If there were such people, I don't know who they were,
21 but if there are such people, and they're officeholders, I hope
22 the people of Lincoln County will also hold them accountable for
23 the environment you found yourself in or, for the very least, for
24 not teaching you better.

25 Now, having said all of that, youth and being new to

1 politics are no excuse for this sort of activity. I, too, was
2 once a young man getting involved in politics. It was exciting.
3 It was interesting. It was an opportunity to serve. It was an
4 opportunity to advance ideas that I believed in. I was
5 idealistic as well, but even though I was young and new to
6 politics, I certainly understood that it was wrong to try to
7 cheat in an election, to try to falsify election documents, or to
8 lie to the FBI about it. Regardless of who may have influenced
9 you, you are solely accountable for your actions.

10 I note that you have, in my estimation, been the least
11 cooperative of the three defendants and, certainly, the last to
12 cooperate.

13 Now in the letters, you did indeed have a lot of people who
14 were willing to say kind things about you and I have no doubt
15 that before all of this happened, and maybe even after, you did
16 some good things. I could say the same thing about the other two
17 defendants and, in fact, I did, but that's not what's at issue
18 here.

19 Also, there's a consistent theme in the 20 letters that I
20 read. It's not in all of them, but it's in most of them, and
21 that is this business that you believed that absentee ballots
22 were -- could be -- applications could be submitted and absentee
23 ballots voted for no excuse at all; in other words, a
24 justification for it didn't have to be given. I recognize a
25 campaign when I see one. It is remarkable that so many of these

1 letters include passages that were merely identical on those
2 points.

3 Further, I find it incredible, especially now that I have
4 seen the form, that you could be so incorrect about the law, but
5 even if you were, ignorance of the law is no excuse and, in
6 particular, as a candidate before for the Board of Education and,
7 in 2010, as a candidate for County Commissioner and, perhaps most
8 importantly, as a member of the Board of Canvassers, you should
9 have known better and you should have taken the time to educate
10 yourself on election law and, although election law is
11 complicated, it's not that complicated. It's not rocket science
12 and these forms aren't that difficult to read.

13 That brings me to another point and that is your role on the
14 Board of Canvassers. I find that to be perhaps the most
15 significant distinction between your case and the other cases.
16 The Board of Canvassers for this election was the County
17 Commission on which you sat as a member and, yet, as the Board of
18 Canvassers, you were a part of one of several institutions
19 specifically given the task of ensuring that the election was
20 free and fair and appropriately administered and in that, by the
21 time you sat on the Board of Canvassers for this election, you
22 failed miserably in that task.

23 Now, for everyone in this room from Lincoln County, whether
24 you're a member of the media, an officeholder, or just a
25 concerned citizen, whether you're here in support of the

1 defendant or not, this sentence that I'm about to give is meant
2 to send a message back to Lincoln County with you and it's a
3 message that I also stated in the Bowman and Whitten sentencings
4 and it's very simple. Election fraud in Lincoln County and in
5 Southern West Virginia must stop.

6 Now, further, here's fair warning. If these sentences don't
7 get the message across and election fraud cases are before me
8 again from Lincoln County or any of the other notorious counties,
9 I will conclude that even stronger sentences are necessary to
10 deter election fraud in West Virginia and preserve the integrity
11 of the will of the people expressed through their votes.

12 For all of these reasons, but especially, especially for the
13 factor of deterrence under Section 3553(a) (2) (B), it is the
14 judgment of this Court that the defendant be committed to the
15 custody of the Federal Bureau of Prisons for a period of
16 21 months.

17 Upon release from prison, the defendant shall be placed on
18 supervised release for a term of two years. Within 72 hours of
19 release from custody, the defendant shall report in person to the
20 U. S. Probation Office in the district to which he is released.

21 While on supervise the release, you must not commit another
22 federal, state, or local crime; you must not possess a firearm or
23 other dangerous weapon; and you must not unlawfully possess a
24 controlled substance.

25 You also must comply with the standard terms and conditions

1 of supervised release as recommended by the U. S. Sentencing
2 Commission and as adopted by this Court, although you need not
3 participate in a program of testing, counseling and treatment for
4 drug and alcohol abuse. I'm also not going to impose a -- I'm
5 going to waive the drug testing requirement.

6 I'm going to impose a fine of \$1,000.00. That will be made
7 due immediately, but it may be paid through the Inmate Financial
8 Responsibility Program at the rate of \$25.00 per quarter. Any
9 remaining balance, once you're released from prison, payment of
10 that will be a special condition of supervised release and it
11 must be paid within the first year of your supervised release.

12 A mandatory special assessment -- has the special assessment
13 been paid, Mr. Campbell?

14 MR. G. CAMPBELL: Yes, sir.

15 THE COURT: All right. Very well. So we don't need to
16 take care of that.

17 You may be seated.

18 Mr. Campbell, are there any recommendations that you or your
19 client would like for me to make to the Bureau of Prisons?

20 MR. G. CAMPBELL: FCI Morgantown, Your Honor, if you
21 would, and I would move that he be allowed to self-report, if
22 that's possible.

23 THE COURT: I will recommend that the defendant be
24 designated to FCI Morgantown.

25 Mr. Ruby, is there any objection to the defendant being

1 allowed to self-report?

2 MR. RUBY: No, Your Honor.

3 THE COURT: All right. I will allow the defendant to
4 remain on his current bonding pending sentencing and I will
5 direct that he self-report as directed to the facility designated
6 by the Bureau of Prisons as directed by the United States Marshal
7 Service.

8 All right. Mr. Ramey, there is a significant appeal waiver
9 contained in your plea agreement. Subject to that waiver, you
10 have the right to appeal the judgment of this Court. Any Notice
11 of Appeal must be filed with the Clerk not more than 14 days from
12 the date of the entry of the judgment order.

13 If you desire counsel on appeal and you are unable to retain
14 counsel, the appropriate Court will review a financial affidavit
15 filed by you to determine whether or not to appoint counsel.

16 Do you understand your right to appeal and the 14-day filing
17 requirement?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: All right. I will place the Presentence
20 Report under seal subject to counsel's right to unseal as
21 necessary for appeal.

22 Any other matters that we need to take care of in this case?

23 MR. RUBY: No, Your Honor.

24 MR. G. CAMPBELL: No, sir.

25 THE COURT: Mr. Campbell, my law clerk is pointing out

that there's -- docket 15 is a motion to travel. I believe we resolved that informally, did we not?

MR. G. CAMPBELL: Yes, Your Honor.

THE COURT: So can I deny that as moot?

MR. G. CAMPBELL: Yes, sir.

THE COURT: All right. I will do that.

All right. And, Mr. Campbell, you mentioned -- or were you appointed in this case?

MR. G. CAMPBELL: Yes, sir.

THE COURT: All right. Well, then I want to thank you for your service not only to the defendant, but also to the Court.

MR. G. CAMPBELL: Thank you, Your Honor.

THE COURT: Thank you.

(Proceedings concluded at 2:58 p.m., November 15, 2012.)

CERTIFICATION:

I, Ayme A. Cochran, Official Court Reporter, certify that the foregoing is a correct transcript from the record of proceedings in the matter of United States of America, Plaintiff v. Thomas Ramey, Jr., Defendant, Criminal Action No. 2:12-cr-000154, as reported on November 15, 2012.

s/Ayme A. Cochran, RPR, CRR

August 29, 2013

Ayme A. Cochran, RPR, CRR

DATE